

Part 5 provides for the commission to determine, on application, compensation in relation to future acts, other than compulsory acquisitions that are already covered under the Land Administration Act.

A procedure for claiming compensation is established for native title holders in relation to part 2, part 3 or part 4 acts when there has been a determination of native title by the Federal Court of Australia. The commission is able to determine compensation, and the determination is to be in accordance with provisions that reflect sections 49 and 51 of the Native Title Act. There are also provisions in relation to the recovery of compensation, the holding of compensation in trust, the payment of compensation from the trust, non-monetary compensation and the jurisdiction of the commission in dealing with trust moneys.

Part 6 establishes a Native Title Commission to exercise functions under the Native Title (State Provisions) Bill 1998 and to have delegated powers from the National Native Title Tribunal registrar in relation to the registration of indigenous land use agreements. The commission is obliged to perform its functions fairly, justly and expeditiously and to ensure that its procedures are informal and accessible.

The commission will consist of a full-time chief commissioner and a number of other commissioners who may be employed on a full-time or part-time basis. In compliance with the Native Title Act, a member of the commission must have been enrolled for at least five years as a legal practitioner of the Supreme Court of Western Australia or another State or Territory, or the High Court of Australia, or have special knowledge in relation to Aboriginal people. The Bill also allows the appointment of members who have knowledge in relation to land and resource management or dispute resolution. There must also be one member of the National Native Title Tribunal on the commission.

The commission has the ability to hold hearings. There are provisions in relation to matters such as offences, confidentiality, conflict of interest and use of interpreters that generally conform with those provisions in the Native Title Act.

The chief commissioner will have the power to engage staff to assist the commission in the performance of its functions. The commission will be an independent body and will not be subject to ministerial direction. It will not be a public sector body subject to the Public Sector Management Act.

Part 7 allows for the making of regulations, review of the Act after five years, and contains consequential amendments to the Land Administration Act, Mining Act, Petroleum Act and Petroleum Pipelines Act, as well as various ancillary acts. Part 7 also contains provisions for transitional procedures to be applied to the large backlog of mining title applications that has built up under the commonwealth NTA processes. These provisions will enable regulations to be made to ensure the orderly processing of the backlog.

This Bill is critical to ensure that Western Australia has a workable land and resource management system in place, which appropriately recognises the native title rights and interests of Aboriginal people. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

BILLS - ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills -

1. Nuclear Waste Storage (Prohibition) Bill 1999.
2. Titles (Validation) and Native Title (Effect of Past Acts) Amendment Bill 1999.

PROSTITUTION BILL 1999

Second Reading

Resumed from 25 November.

HON N.D. GRIFFITHS (East Metropolitan) [4.46 pm]: The Prostitution Bill 1999, as it stands, is an affront to anybody in our community who has any respect for any reasonable notion of civil liberties. The minister's second reading speech said that the Government was introducing legislation that it considers will give police increased powers - and this is the purpose of the legislation - better to control child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship. The Australian Labor Party agrees that a Bill should be before this House that would enable child prostitution, street prostitution, kerb crawlers, and advertising and sponsorship with respect to prostitution to be dealt with. This Bill goes much further. When those words were used by the minister in his second reading speech, they did not accurately describe what was contained in the Bill. We in the Australian Labor Party agree with what is said to be the purpose of the Bill, but we do not agree with much of what is contained in it. I give notice that the Australian Labor Party will seek to have the Bill dealt with by the House so that it properly reflects what the Government says the Bill is supposed to do, rather than what, on any rational reading of the Bill, it seeks to do.

The Prostitution Bill 1999 in its current form does not regulate some aspects of prostitution as much as prohibiting prostitution. In particular, this Bill goes further than dealing with matters to do with prostitution on streets with respect to prostitutes and customers. The involvement of juveniles in the role of street prostitutes has received much publicity. On its face, this Bill intrudes into areas far beyond street prostitution. It certainly deals with places which are not ordinarily considered to be public places. It deals with brothels, hotels and a variety of locations, notwithstanding misleading words used by those who promote the Bill as dealing merely with street prostitution and matters incidental to that, as I have described.

The Bill is framed in wide terms. It seems that is the Government's intent. One need only note its genesis. It purports to be a reaction to a Bill which emanated from the Australian Labor Party. It goes much further than being a mere reaction. It is a Bill which has been hanging around for some time. In part, it has been excised from some other Bill. It is a document which comprises what many quite reasonably would see as a police powers wish list; that is, "Please give us what we have wanted for so many years." In terms of public misbehaviour, the Bill does not deal with murder, mayhem or the sale of drugs for profit. We are talking about the oldest profession in the world, about something which has been and always will be with us. The usual phrases come to mind, including that we are using the Bill as a sledgehammer to crack a nut. The Bill is over the top and the penalties it sets out illustrate that. They are absolutely out of kilter with what is proposed in other jurisdictions, and in this jurisdiction, to deal with similar misbehaviour.

One of the worst aspects of this Bill is that it creates offences of which the substantive part will be dealt with by way of regulation. It creates an offence that is not something that is petty. It cannot be petty, because in one case the offence to be created by regulation carries a maximum penalty of 20 years' imprisonment. This sort of legislation is unknown to any comparable jurisdiction in the English-speaking world. It is alien to the way we behave. It is the sort of legislation that one would have expected in eastern Europe prior to 10 years ago, or in parts of western Europe prior to May 1945. It is outrageous legislation. It is outrageous to present before a House of Parliament in a Westminster system a proposition that by regulation we can create an offence which can carry a maximum penalty of 20 years' imprisonment. I know that these matters do not worry the Attorney General because he has no concern for civil liberties. However, as one goes through the Bill, one sees a reversal of the onus. The Bill contains the lovely words "conclusive presumption". We will have a regulation that will create an offence that carries a maximum penalty of 20 years' imprisonment. We are offered a reversal of onus and a use of language not well known to our courts, the language of conclusive presumption, in a Bill before the Legislative Council of Western Australia. If we are any sort of House of Review we must look at this legislation very carefully. Frankly, it must be amended so that it can deal with what the minister in his second reading speech said it was supposed to deal with - that is, street prostitution, matters relevant to street prostitution pertaining to children, kerb crawlers and some aspects of advertising and sponsorship. A number of categories of offence are capable of being substantially created by regulation. One involves a maximum penalty of up to 20 years' imprisonment; others have lesser penalties of imprisonment for five years and two years. This is anathema to the way we as a Parliament have always conducted ourselves.

I do not know who was responsible for this legislation. I have heard members opposite talk about the processes of their party room. Either they have no consideration whatever for civil liberties or they were all asleep. I do not know which ministers, if any, were involved in the preparation of this legislation - perhaps they were all asleep; I do not know. Whoever they are, they have no regard whatever for civil liberties.

I note that an aspect in this legislation deals with the issue of hindering of police. We are talking about prostitution. Aspects of prostitution can be serious. The Police Act deals with hindering of police, and it does not consider hindering a police officer to be a very serious offence. An exception to that is contained in the Misuse of Drugs Act, which refers to two areas of hindering; one carries a maximum penalty of three years' imprisonment and one a maximum penalty of two years' imprisonment. However, we are dealing here with prostitution. In the Police Act, which deals with hindering of police, across the board the maximum penalty is six months' imprisonment. The Government has gone overboard. The Bill will give the police a wide range of powers that they do not have and should not have for what is a minor area of public misbehaviour which will be carried on anyway, and which the Minister for Police says will be carried on anyway; although, when the minister says that in his public pronouncements, he gives the lie to the black letters on the white paper in this Bill.

We have before us a measure which will make people liable to a term of imprisonment for two years for failing to produce a document. So much for the right to remain silent! I do not know whether members opposite have any appreciation of or regard for our traditions - frankly, I do not think they have. I do not know how on earth they can go along with a proposition that people are not to refuse to answer a question or otherwise give information when required to and, if they fail to do that, will go inside for two years. Do members opposite not have any understanding whatever of our traditions, our common law and our parliamentary traditions? Do they not have any knowledge whatever of the sixteenth century and, more particularly, the seventeenth century and the constitutional changes which have occurred and which have brought into place assemblies such as this? This sort of provision in a Bill is an absolute affront to our civilisation. If we go along with this measure, we do not deserve to be here. It does not belong in this century, let alone in the next, and it certainly does not belong in this jurisdiction.

One of the points I note about this Bill is that a person cannot be prevented from refusing to answer a question or otherwise give information or produce a document or other thing because the answer or information would relate to, or the document or thing contains, information in respect of which the person claims legal professional privilege. That sums it up: Whoever is responsible for this document belongs in another time and another place. If this Bill as it stands becomes law, so many of our public health arrangements which have been in place for such a long time, and which seem to have worked very successfully, will be put at risk. The Health Act of 1911 contains a code that deals with the issues of sexually transmissible diseases.

We have a proper regulatory regime. There has been much publicity in recent times about street prostitution, kerb crawlers and so on. However, there has been no publicity about the regulatory regime in the Health Act 1911 not working. In fact, the only publicity we have seen and heard in recent times, since this Bill was introduced, is to the effect that the sections regulating that behaviour in the code will be put at risk.

[Questions without notice taken.]

Hon N.D. GRIFFITHS: Before question time I was talking about those who disobeyed the new proposed police powers being liable for a period of imprisonment of two years, and about the Government putting at risk longstanding public health measures dealt with in the Health Act 1911 under a regime which has not been the subject of criticism. This Bill reinforces a containment policy which had been in existence in Western Australia for a number of years. A few years ago it fell apart - I am no defender of that containment policy because I do not like hypocritical arrangements - and the prostitution industry became widespread under this Government, perhaps because of social and economic conditions. That containment policy is selective law enforcement on the part of the Police Force. If this Bill is not amended, that will continue to be the case.

I note that only police officers can bring complaints, notwithstanding the fact that we are dealing with simple offences as well as crimes. There is another containment policy and in some ways it is a more insidious containment policy, because the public of Western Australia have been made aware of the containment policy for which the police have been criticised for many years and they have been made aware of that by the actions of the Press. I note that in the second reading speech the minister said -

The Bill will prohibit anyone from publishing any statement promoting employment in prostitution or from entering into a sponsorship arrangement which promotes prostitution. In reflecting the seriousness with which this issue is viewed, a penalty of a \$50 000 fine has been provided.

I suppose that is well and good. The minister went on to say -

In addressing the issue of advertising, I take the opportunity to thank the *Sunday Times*, *The West Australian* and Community Newspapers of Western Australia for their efforts in working with the Government to develop a code of conduct that will limit the content of advertising for the purpose of prostitution. While the Government intends to monitor this accord, with a view to ongoing self-regulation -

For "self-regulation", read "containment" -

by the parties involved, I take this opportunity to commend them for adopting this position on the issue.

Therefore, the police are above the law and those good media organisations are also above the law. It is interesting to note that the media which seek to inform us of what goes on in the State of Western Australia have not bothered to tell us about the accord that has been developed. They have not publicised the fact that they have been involved in some deal with the Government of the day to protect their advertising revenue. So much for fearless reporting in Western Australia and so much for containment policies. We shall have not one, but two containment policies under this regime. I will ask the minister a question about that later on.

This Bill seeks to provide police powers in an area which the Government says is dealing with only street prostitution and matters pertaining to that, as I mentioned earlier. Of course, those who said that elsewhere lied about it. They deluded others and told lies, and that is fairly typical. Those powers are very wide and they refer to the police requiring something for the purpose of performing any function under the Act or any function in respect of an offence under the Act. A police officer can require the production of a document or other thing in the possession or control of a person. A police officer can inspect that, retain it and make copies of its content. A police officer can require a person to give that police officer such information as the police officer requires, and to answer any question put to that person. The Bill deals with how those requirements can be made but there are no proper safeguards. One area of the Bill which probably deals with the issue of street prostitution, with which the Bill purports to deal, is that where the police may direct a person to move on. Provided that is scrutinised properly, it may do the job that the Bill says should be done. So much of what is contained in the Bill goes beyond that. That particularly applies to the proposition that somebody can be detained, searched and seized without warrant, and that someone can enter and seize without warrant. Very wide search and, frankly, brutal seizure provisions are involved by which police officers can use force. This does not matter to the Attorney General, who, along with his colleagues, is probably the author of this rubbish.

We then have the interesting undercover officer provisions, the safeguard for which is the authorisation of the Commissioner of Police. Interestingly, that authorisation can be delegated. Therefore, the safeguard is the commissioner, but that is done away with through the powers of delegation. I suppose it is reasonable that a power is provided for a restraining order to be made; that is, to invite somebody in a positive way not to re-offend. It is almost certain that these people will re-offend, but I suppose something positive may be found in this provision. However, the Bill's wording extends far beyond that intent and leaves too much to be defined by regulation.

The Bill contains some fascinating evidentiary provisions. Every time prostitution is mentioned, the cry is heard: "It is hard getting evidence." It is hard to get evidence if one does not try to get evidence. This is a problem with policing, rather than evidence. The question of evidence has been overstated in the past, and it continues to be overstated. This relatively novel Bill needs to be scrutinised very carefully in that regard.

Draco would be proud of some of the Bill's other interesting provisions. A couple of weeks ago the House properly passed the Acts Amendment (Police Immunity) Bill 1999 with the agreement of all concerned. As the lead opposition speaker, I criticised the Government for the delay involved with that measure. It seems that the Government did not really want to pass that Bill, as then clause 5, and now section 137 (5), reads -

The Crown is liable for a tort that results from -

- (a) anything done by a member of the Police Force, without corruption or malice, while performing or purporting to perform the functions of a member of the Police Force, whether or not under a written or other law;

- (b) anything done by a person, without corruption or malice, in assisting a member of the Police Force who is performing or purporting to perform the functions of a member of the Police Force, whether or not under a written or other law.

Would it not be interesting if, in the course of considering the Prostitution Bill, a clause were discovered which contradicted that provision which we passed a couple of weeks ago? Would it not be interesting if the House reflected on that matter and came to the firm view that such contradiction was a mark of great incompetence? How would a Government be judged if it recently passed a Bill and then introduced a measure which in large part contradicted that Bill? So much for consistency! Frankly, the Government is incompetent. This is a very bad Bill drawn up by incompetent opportunists who have no regard for civil liberties or the state of civilisation in Western Australia.

If this Bill were substantially amended, it could do something worthwhile about street prostitution and related difficult matters which regrettably are prevalent in certain parts of Perth; therefore, the Australian Labor Party will agree to the Bill being second read.

HON GIZ WATSON (North Metropolitan) [5.45 pm]: The Greens (WA) cannot support the Bill in its current form as it has all the appearances of being hugely rushed in its preparation. I am adamant that it requires enormous amendment if it is to be salvaged in any shape or form. I place our position on this matter on the public record: The Greens (WA) acknowledge wholeheartedly the concerns of people affected by streetwalking in their neighbourhoods. A number of people have contacted my office, and I have engaged in extensive conversations with them about those concerns, which the Greens share. We agree that not only is it disruptive and unpleasant to have streetwalking occurring adjacent to one's house, but also an associated risk is involved for members of the public, particularly younger people, with such antisocial behaviour.

I now outline the policy or position of the Greens (WA) on the sex industry and prostitution: We would dearly love this industry not to exist. An enormous number of issues arise in the sex industry with the exploitation of women and the impact of such activities on workers and clients. We acknowledge that we will never be able to get rid of this industry. For me, this debate is not dissimilar to the debate on abortion which occurred in this place not long ago: We all agreed that we would dearly love abortion not to be necessary; likewise, we wish that there were no sex industry, but there will always be a sex industry.

The objective of any legislation to regulate the sex industry must be to treat it as a health issue, including occupational health and safety. The Greens (WA) are very much concerned about the rights and health of people who find themselves working, or who choose to work, in that industry.

A core concern which developed when I began examining this Bill is that it severely curtails the basic human rights of people working in this industry. The other issue which became apparent when I met various representatives who wanted to tell me their concerns about the Bill is that it is supposed to address only the issue of streetwalkers. It is important to realise that street workers in the sex industry are virtually a separate group from those working from premises or brothels. In fact, I am told that almost 99 per cent of those working on the street do so to get money for a drug habit.

This Bill is a reaction to a phenomenal increase in the number of people working on the streets, one of the underlying causes being that the issue of drug use and abuse is not adequately addressed in this State. Another cause is that those workers cannot get jobs in a brothel because the management will not employ people who have a drug habit. I am not saying that is right or that is wrong. We are trying to deal with a problem that is much bigger than the issue of people working on the streets. Unless we address the underlying causes for people turning to such a high degree of drug use in this State, we will never adequately tackle the issue of street prostitution; we will merely displace it to another more out-of-sight area. One acceptable alternative way of dealing with the issue is to go the way of a number of other States; that is, allocate an industrial area to be used legitimately for street prostitution.

My concern is that if we bring in heavy penalties and fines for street workers, those workers will be forced to turn to other activities to raise the money they need for their drug habit. It was suggested that street prostitution is a victimless crime, although nobody wants it in their area and everybody agrees there are problems and dangers associated with it; whereas drug users, who are put under extreme pressure to stop working on the streets, will find other ways of getting the money that they inevitably need, by housebreaking and bag snatching, for example. These are very difficult issues on which to take a right or wrong stance. One of the impacts of cracking down on street prostitution might well be an increase in other types of crime which, unfortunately, have victims. Apart from the connection with drug use of people working on the streets, there are also obvious issues of poverty and inequality that drive people to work in the sex industry. One of the fairly sobering aspects of prostitution is that by far the majority of women working in the sex industry have suffered sexual abuse as children. I am not saying that is true of all sex workers but there is a very frightening correlation in that area. We must increase the provision of services that are necessary to prevent people from choosing to work in the sex industry, in particular street sex workers.

This Bill is a very rushed piece of legislation and the inevitable result of a lack of a holistic approach to prostitution in this State. The current government policy of containment patently does not work. It leads to corruption and selective policing, and also erodes the ability to monitor the industry. The lack of a written policy has created a huge problem. It is very difficult for the police and those people involved in the industry when there is no legal framework in which they can work. One of the recent phenomena was the estimate of between 400 and 500 sex workers in this State in 1990-91; now it is estimated at more than 3 000. That figure comes from a government report on the draft prostitution control Bill of 1998. The report used those figures to show that the numbers of sex workers in Western Australia had increased rapidly. One must question whether those figures relate also to economic hardship.

Interestingly, an organisation called Phoenix, which represents sex workers, estimates that 3 000 is probably half of the real figure. We are therefore looking at an enormous number of people who are actually earning a living in this way. I guess the spilling out onto the streets is one result of the increased number of sex workers operating in WA. The objective of limiting or prohibiting people working on the streets has merit. A recent issue of violence towards and the disappearance of sex workers has created enormous concerns, among not only the general public but also those workers themselves. Those are extreme examples but most sex workers never report incidences of violence. An estimated 80 per cent of violent attacks on sex workers are unreported. A lack of protection for women, particularly on the streets, makes it even more dangerous to be working there. As I said, the problem is that those workers would be unable to get employment in the more protected environment of a brothel because the majority of them are drug users.

One of my key concerns about the Bill is that the whole approach of the Government is to leave the regulation of prostitution in the hands of the police rather than to treat it as an occupational health and safety issue. The main concerns that have been brought to me have come from members of organisations such as the Family Planning Association of WA and the Australasian College of Sexual Health Physicians, who took the time to write to me expressing their concerns on behalf of a range of health professionals providing services in this area. These people in their work obviously see a number of people, particularly workers in the sex industry. They have expressed concerns to me that the Bill will result in the approaches to limit the spread of disease and promote safe sex practices in the sex industry being set back drastically. The provisions in the Bill will result in the reluctance of those workers to come forward for health checks or consultations with any health professionals because of records being made available under the legislation or health professionals being required to provide the information on request to the police. One of the interesting myths about sex workers is that they all have a rampant rate of sexually transmitted diseases and are a health hazard. The reality is that most sex workers have a low record of sexually transmitted diseases compared with an average member of the public.

Sitting suspended from 6.00 to 7.30 pm

Hon GIZ WATSON: Before the suspension I was about to elaborate on one of the misconceptions that people working in the sex industry are more likely to spread sexually transmittable diseases among the unsuspecting general population. I received a letter from Dr Heather Lyttle, a sexual health physician and Chairperson of the WA Chapter of the Australasian College of Sexual Health Physicians, which reads -

In its current form -

She is referring to the Bill -

- it appears punitive and unworkable. Sexually Transmitted Diseases in the community are spread far more by the general population than sex workers who consistently use condoms. In Australia in the 1990's Sex workers have a lower incident of condom-preventable diseases than the general public.

That highlights one of the major concerns with the Bill.

The provisions requiring certain information to be made available will impinge on achievements within the industry, such as increased rate of practising safe sex and the use of condoms, which play a major part in reducing the spread of sexually transmitted diseases.

From speaking to people such as Dr Lyttle, the Family Planning Association of WA and the AIDS Council, irrespective of the intention of this Bill with respect to sex workers, I believe its implementation will have a retrograde impact on the advances made in sexual health within the industry.

In outlining some of the history that led to the introduction of this Bill, I refer to the failure of both major parties to introduce a comprehensive approach to prostitution in this State.

Hon N.D. Griffiths: And the Greens.

Hon GIZ WATSON: We have not had an opportunity to do anything until now.

Hon N.D. Griffiths interjected.

Hon GIZ WATSON: In 1990, the State Labor Government reviewed this issue by establishing a community panel on prostitution. Probably the overriding recommendation from that panel was that the best way to address prostitution was by decriminalisation. Since then there has been a lack of will to go that far.

Hon Peter Foss: Not lack of will; we do not agree.

Hon GIZ WATSON: Or lack of agreement, that is fair enough.

Another concern that has been raised about this Bill is the lack of consultation with health care professionals and workers in the sex industry. It seems that only in the past week or so have a number of health professionals and their organisations had an opportunity to realise what this Bill is proposing. They have responded very vigorously with their concerns. As a result, the House will be contemplating some major amendments to the Bill. We will be supporting the bulk of those amendments. I certainly think that they are pulling back a lot of the issues that looked as though they would go as far as to impinge on people's rights and set back dramatically the health agenda in this industry.

Another state government community panel recommendation is that one of the ways in which to have better regulation of the industry is to encourage responsible behaviour in sex workers and their clients, to encourage the free flow of information and education and to alleviate some of the stigma associated with those working in the industry. What is so fundamentally

wrong in the approach of this Bill is that it runs counter to all of those initiatives for encouraging responsible behaviour in workers and their clients. The Bill stands at the moment as an impediment to that flow of information and whatever efforts for education have been made to date. The Bill certainly does nothing to alleviate the stigma associated with the industry.

An extraordinary irony is that in *The West Australian* approximately three weeks ago, when an American aircraft carrier came into Fremantle - about the time of the discussion on whether a Bill on prostitution would be introduced into the Parliament - there was a picture of three very scantily clad young women at the port "welcoming" the sailors in. I thought that there we had double standards. We all think that prostitution is a terrible thing but when the sailors arrive it is just a bit of entertainment for those women in bikinis or whatever to sell their services to the sailors! It is one of the aspects I find appalling, because not only do these vessels come into our ports carrying nuclear weapons but also their sailors exploit our women. The community has an extraordinary double standard when it comes to what is acceptable and what is not.

Hon Ray Halligan: Are you suggesting that the community should condone it?

Hon GIZ WATSON: I am suggesting that sort of behaviour is seen in a different light from streetwalkers in Perth.

Several members interjected.

The PRESIDENT: Order! I remind Hon Ljiljana Ravlich that it is not question time. Hon Giz Watson has the floor, and I am trying to listen.

Hon GIZ WATSON: Thank you, Mr President, I will try not to be distracted in my presentation on this matter.

The industry makes an enormous contribution to the economy. Another double standard is that although the industry is illegal, those working in it are required to pay tax.

Several members interjected.

The PRESIDENT: Order! Hon Nick Griffiths should be aware that I am trying to listen to Hon Giz Watson. As I have said before, she is in probably one of the most difficult places in the House from which to hear somebody speak.

Hon GIZ WATSON: I came across an article in the *Western Review* from December 1994 which stated that the estimated earnings from prostitution were between \$22.7 and \$63.3m annually. It is obviously an industry that contributes to the Australian economy in a major way. The article contains other interesting statistics. Again, I raise this to point out some of the double standards in our community regarding prostitution. It claims that seven out of 10 adult males have some direct experience of prostitution. I am pleased the Bill addresses the issue of prosecuting fines. In the majority of cases, regulations and punitive action are directed at the sex worker, rather than the client. I have found that to be exceedingly unreasonable. I acknowledge that the Bill makes some efforts towards penalising the client.

I will reserve the bulk of my comments concerning the detail within the Bill and what the legislation is supposed to achieve for the committee stage. We will be able to address the clauses in some detail then. In general, this legislation is intended to address kerb crawling and street prostitution. I acknowledge the need to address that issue and the impact it is having on the people living in North Perth, in particular.

Another intention of the Bill is to protect public health by reducing the likelihood of prostitutes who become infected and who subsequently infect clients, before the prostitutes realise they have an infection. There is a problem in terms of the exact time at which people know they have become infected with a disease; for example, people could go to a health professional and be told that they are okay and an hour later could have a contactable disease. It is a very difficult area in which to prescribe laws. With HIV AIDS there is a window of up to three months during which people can carry the infection, but it will not show up in any tests. To try to make provisions that prove people should have known they had a disease is very difficult. It is less likely that people will visit a health care professional because of the onus on them that, once they had the check-up, they might be liable under the new legislation.

Legislating to provide access to information is also difficult. I am not comfortable with these proposed changes. As I understand it, this provision will remove the excuse of legal professional privilege so that members of the medical profession will be required to give access to medical records if requested to do so by the police. That is unacceptable and would be an extremely retrograde step in the health of not just the sex workers but also their clients.

Hon Cheryl Davenport interjected.

Hon GIZ WATSON: I have not had the opportunity to check that out thoroughly, but it has been said that it is likely to contravene issues like privacy legislation.

We applaud the move to address the issue of under-age people being involved in prostitution. The question is whether the proposals under this Bill are the best way to deal with that. However, we acknowledge that existing laws probably are not adequate to address the specific issue of children being involved in prostitution. The Bill is reasonable on that score.

The next point which has raised major concerns is the provision of police powers to enforce the Act and to stop and search to obtain information. The whole suite of powers proposed under this Bill are totally over the top and are an enormous additional power. For example, under this legislation, police will have powers to stop, detain and search without a warrant and to confiscate anything that will afford evidence of the commission of an offence. If someone were stopped in the street and happened to have a packet of condoms in his or her back pocket, would that mean that that person would be suspected of either soliciting or seeking a prostitute? I hope that a large majority of the people who go out on a Saturday night have condoms in their back pockets, because that is one of the messages that safe sex education has promoted. It worries me when

the Bill states "anything that will afford evidence as to the commission of an offence". That could easily capture a lot of people who were being very responsible and were not about to solicit or seek out a prostitute.

The powers of entry and seizure without a warrant are extraordinary. The Bill proposes to give police the power to enter without a warrant and also to search and seize with reasonable force, which includes searching premises other than those at which a prostitution business is being carried out. That leaves a broad power to enter any other premises as well.

The Greens (WA) also have concerns about the issue of entrapment. We note that there is an amendment in the name of Hon Norm Kelly on this issue and we do not support the use of entrapment procedures and the authorisation of undercover operations. In the area of police relations with the sex industry, there is a pre-existing degree of mistrust and suspicion of police, and the use of entrapment should not be supported. I do not support it, in the context of sexual offences, in this way.

My final point on the detail of the Bill concerns the exchange of information between state authorities. Dealing with the disclosure of information in respect of juveniles, the issue has been raised with me that the Bill, as it is drafted, will override a section in the Young Offenders Act which states that anyone who discloses the fact of a juvenile's conviction commits a crime. The fact that it overrides that section worries me greatly, because obviously that provision was included to protect juveniles. Again, this is an indication that this Bill is exceedingly heavy-handed and punitive in its approach. I look forward to the debate in the committee stage, because some detailed matters concerning the clauses need thorough debate.

The Greens (WA) seriously doubt that they can support the Bill in its current form. We see it as being hastily put together. It is positively dangerous in some of the powers that it seeks to provide to the police. If the Bill were allowed to proceed, it would have an impact on safe sex messages and issues concerning the health, not just of the sex workers, but also their clients, and it would cause a major disruption to outreach programs and other initiatives which involve street workers and other workers in the sex industry and which seek to promote positive health messages and to manage the activities in a way that protects both the clients and the workers. In conclusion, it is unfortunate that prostitution law reform is tackled in this piecemeal way. We look forward to a comprehensive and holistic approach to the issue of prostitution in this State, rather than the politically motivated piecemeal approach that this Bill represents.

HON CHERYL DAVENPORT (South Metropolitan) [7.53 pm]: As Hon Nick Griffiths indicated, the Opposition supports the second reading of this Bill, but it will seek to amend it during the committee stage. Hon Nick Griffiths has covered in some detail concerns which have become apparent since the Bill was dealt with in the other place. At that time, as *Hansard* reveals, the Bill sought to deal with three specific issues: First, it sought to provide offences for street soliciting for both prostitutes and clients, who have effectively become known as kerb crawlers. This essentially is an attempt to deal with the visible problems that are currently being experienced by many residents and business owners in the Northbridge area. I am sure that many members have been contacted by those local residents, as I have. Secondly, the Bill sought to prevent children from being involved in prostitution and to prevent their exploitation. Thirdly, the Bill sought to empower the Police Service to deal effectively with prostitution, public health issues and the involvement of children in street soliciting. It is fair to say that when the Legislative Assembly passed this Bill in the last parliamentary sitting week, a number of significant consequences of this legislation were not well known. Those consequences have since become major issues of community concern. Like many other members of this House, I have been contacted over the past week by a range of organisations and individuals with genuine concerns about the Bill. We must acknowledge the vigilance of those people for doing the detailed study which none of our colleagues in the Legislative Assembly was able to do before the debate.

I will make a couple of observations about the Government's handling of the legislation from that perspective. It is a long-awaited Bill. It has already been mentioned that my party failed to tackle the issue when it was in Government, despite reports done at the time. However, this piece of legislation has been in the drafting process for the best part of two years and it now seems to be an attempt, cobbled together, to deal with three specific areas. It is nothing short of a disgrace. If ever a piece of legislation ought to be dealt with by the Standing Committee on Legislation, this is it. I know the difficulty of debating and dealing with issues of moral law reform after our experiences in this place last year. The way to deal with a Bill like this is to submit it to a committee and allow public hearings so that the groups and organisations that deal with this issue on a daily basis and the people who work in the industry can have some input. We could at least tease out what the problems are and try to deal with this legislation in a much more calm and rational way. There is no doubt this is important legislation. We all know that matters such as prostitution and abortion law reform are difficult public issues to deal with. As legislators, we are sometimes far more conservative than the general community. The general community is seeking leadership from us in issues such as this. It wants us calmly to put forward rational legislation that is not dealt with in the rush of the last weeks of the parliamentary session before the Christmas break. I am sorry we have to deal with the legislation in this manner. It would have been much better to have more scrutiny and access to information by referring the Bill to a parliamentary committee. The Standing Committee on Legislation could deal with this in an appropriate way. I feel very sad that the facilities of this Parliament have not been made available to allow this Bill to be dealt with properly. I blame the Government because it and the parliamentary management could have prevented this Bill from getting to this stage.

The Bill provides the Police Service with extraordinary extensions of powers. In my limited ability to read this Bill, those powers seem punitive. I think there are few, if any, preventive measures in the Bill. Some of the organisations that contacted me over the past week want specific issues raised. I felt it was appropriate to bring some of those concerns to the attention of the Parliament. I first refer to a letter I received from Family Planning Western Australia. That organisation not only deals with issues of reproductive health, but also now provides, in a very proper way, counselling and medical services for many Western Australian sex workers. I shall read into the record some of the issues raised by Family Planning, which it regards as serious issues that this Bill cannot adequately deal with. The letter addressed to me states -

The Bill directly contravenes a number of national and international recommendations regarding the maintenance of optimal sexual health and prevention of sexually transmissible infections.

Hon Giz Watson has dealt with that aspect adequately. The letter continues -

It makes no provision for occupational health and safety measures.

It then refers to STD and HIV health prevention strategies and says that the Bill contravenes the individual rights of HIV-infected persons to have sex. It also sets back HIV-AIDS campaigns which have been in force since 1980. None of us has any illusion about the millions of dollars that were ploughed into those campaigns, and which have made a positive difference in the incidence and spread of HIV-AIDS in this country. The letter alludes to the fact that the minister said in his second reading speech that numerous government and non-government agencies in the inner city and Northbridge area have responsibility for providing an appropriate welfare response. The association argues that in its current form -

This legislation makes the capacity to provide any welfare or health services impossible.

The letter then refers to the issue of confidentiality -

This Part of the Bill is to the detriment of sex workers and their clients who will be reluctant to access health services for HIV and STD testing in the event that the information may be used to prosecute them. The implications will be that the industry will be forced underground and outreach health workers will find it impossible to access workers. This will do nothing to encourage testing, seeking information or any activities that support health promotion activities.

The legislation overrides confidentiality legislation requirements for health providers and places them -

That refers to health providers and not workers in the industry or those seeking to be their clients. It continues -

- in an ethical and legal dilemma.

The letter continues and refers to police powers as follows -

The legislation gives unwarranted powers to police with no accountability requirements. Entrapment activities have the potential to compromise police integrity. Police offences against street workers are already a serious problem. Section 31, Provisions about searching a person, is ambiguous. What would police be looking for on someone's person? Evidence about STDs or child prostitution?

The letter concludes by saying that workers fearing entrapment will not be prepared to speak to outreach workers, and this compromises the capacity of health and welfare organisations to provide the services for which they have been funded by the State. These are real concerns for Family Planning, which deals with sex workers on a daily basis.

I also will read into the record a small raft of concerns from the WA Aids Council. It argues that the Bill -

- (i) contravenes tried and true Public Health strategies, undermining the HIV/AIDS and Sexually Transmissible Diseases response;
- (ii) contravenes basic human rights through draconian entrapment, investigation and imprisonment measures;
- (iii) contravenes anti-discrimination legislation at the Federal level and appears to be in direct contravention of Australia's Human Rights treaties;
- (iv) provides unwarranted powers to police with no apparent accountability requirements;
- (v) makes impossible the capacity to provide any welfare or health services;
- (vi) overrides confidentiality requirements for health providers . . .

Both organisations have similar concerns.

I refer now to a telephone call I received from Mr Garth Eichorn, who is the metropolitan representative on the Safer Western Australia Council outlining two major concerns about this legislation. First, he argues that the approach to streetwalkers is particularly punitive, and secondly, that the Bill seems to be restricted primarily to the Police Service rather than involving other agencies. He told me that a basic tenet of the Safer WA Council is to coordinate an interagency approach to services dealing with problems within the inner city area. He sees this legislation as not a positive approach to managing the industry in that area. He also stated that the Safer WA Council had input into the Minister for Police's original prostitution Bill, but had not been consulted on the new legislation. That lends truth to the suggestion that this Bill has received little consultation outside the Police portfolio.

I had a long conversation with Mary-Anne Kenworthy, a brothel madam in Western Australia, who raised a range of matters, but her chief concern was that this legislation will give police absolute control over the sex industry. Her observation was that the Government, through this legislation, will bring back the whole notion of the containment policy. Also, she believes the potential exists for the number of brothels in Western Australia to be reduced to between nine and 11. She argues that Perth currently has 50 to 70 sex businesses, which she termed as "best practice" for anywhere in the world with a population of the size of Perth's. She also raised a number of concerns about the Kalgoorlie situation, to which I will refer in more detail later. I will raise some questions on behalf of the member for Kalgoorlie, who requested that I do so as she was unable to be present during debate in the Legislative Assembly.

Ms Kenworthy also raised the issue of the involvement of younger women, particularly those under 20 years of age, in the sex industry. A reason for that involvement is the difficulty accessing work and the money that can be earned through prostitution. A younger person may earn about \$300 a week in other employment areas, but she might earn \$700 to \$1 000 a night as a prostitute. The potential for earning is quite amazing. Having said that, Ms Kenworthy also stated that young women do not make the decision lightly to enter the sex industry; they consider it for a long time. As an employer in a sex outlet, she is very careful when interviewing younger women and women coming into the industry and counsels them against it if she picks up the fact that they might be feeling nervous and may be unsure of whether that is the way to go. She said that one of the essential aspects in dealing with the issue is the necessity for training on how to deal appropriately with clients as technically, as we all know, the profession is illegal. It is very difficult to be able to provide that kind of training now. She went on to tell me that in the 15 or 16 years in which she has owned operations in Western Australia she has never had a health inspection check, been provided with fire standards information or received requests from councils that she provide adequate parking - all of the things to which proper legislation would attend. It is wrong to allow this legislation effectively to be run by the police because a range of other things must be considered when providing adequate and appropriate business.

As I said, Mary-Anne Kenworthy also raised the issue of the Kalgoorlie situation, which has certainly become known since the legislation was passed in the other place. I will deal briefly with some of the other concerns raised with me by the member for Kalgoorlie who is a lawyer and has read the legislation. She pointed out to me that there are existing provisions in the current Child Welfare and Police Acts which are not being used to control underage and street prostitution. She also cited the leaked report from the WA Police Service last year which was prepared in response to the New South Wales Wood royal commission and which demonstrated that the Western Australian child abuse unit does nothing to prevent or prosecute those people involved in child prostitution, mainly due to the lack of resources available to do so. That is another area in which there has been little debate and which could be covered by this Bill. Specifically in relation to the Kalgoorlie-Boulder situation, the member for Kalgoorlie believes that the Bill in its current form makes provision to charge skimpy barmaids, some of whom actually engage in physical contact; strippers; and the prostitutes who work in the three brothels which operate under containment in Kalgoorlie. She believes these activities would be picked up in the current legislation under the definition of "a public place".

I want to refer to two articles from the *Kalgoorlie Miner*. The first article carried a response from the Minister for Police and the second article in today's edition carried a response from the police superintendent in Kalgoorlie. I will read those articles into the record because it would be useful if the minister were able to respond to those articles when he sums up the second reading. The first article entitled "New law may not apply in Hay Street - Prince" reads -

Police Minister Kevin Prince admitted yesterday that legislation designed to control Perth's street prostitution problem could impact on Kalgoorlie-Boulder's historic "starting stall" brothels, although that was not the intention of the Bill.

But Mr Prince said he expected Kalgoorlie police would exercise their discretion when applying the law and would allow the century-old tradition of prostitutes displaying themselves in public view at the three Hay Street brothels to continue.

The article says further on -

Mr Prince said he did not expect police would want to change what had become an accepted practice in Kalgoorlie.

"It is possible to suppose . . . that somebody might try to stretch (the legislation) to cover the starting stalls", he said.

"But I think that that is unlikely and I would certainly not as a matter of policy like to see that done because that is not the practice that this law is designed to stop."

Although we know that the potential exists under this legislation for people to be caught by it -

Hon Peter Foss interjected.

Hon CHERYL DAVENPORT: I know and I agree, but the definition of "public place" would ensure kerb crawlers were caught.

Hon Peter Foss: It will not make it any wider.

Hon CHERYL DAVENPORT: No, but I am seeking clarification on this issue. As I said, it is obviously of concern. I defy anyone here who has been to Kalgoorlie to say they have not been to see Hay Street in Kalgoorlie. I suspect it is a tourist attraction. Certainly there is potential for the Bill to cause concerns for those workers in the industry and for any person seeking to be a "client". Even someone driving up the street who shouts raucously could be caught because they could be suspected of seeking to be a "client".

Hon Peter Foss interjected.

Hon CHERYL DAVENPORT: I acknowledge that is a problem that has been ignored under the existing legislation. However, this legislation has drawn attention to it and it has become a problem due to the perception that the powers the Bill provides to the police could cause them to crackdown in some of those areas.

On 4 December the *Kalgoorlie Miner* reported that the Australian Family Movement was seeking to stamp out prostitution altogether, which is somewhat unrealistic in this day and age.

Hon Peter Foss: In any day and age.

Hon CHERYL DAVENPORT: That is their view which no doubt many people in the community may share, but I am sure they are in a minority. The *Kalgoorlie Miner* of today reported some comments made by the superintendent of police, which read -

Speaking on the issue for the first time yesterday, Kalgoorlie's new police superintendent Haydn Green said the Bill would not end the century old practice of prostitutes publicly displaying themselves in the "starting stalls".

But, he said current arrangements would be "firmed up" to ensure prostitutes remained within the confines of their stalls and did not venture outside to solicit clients.

He said a line would be drawn in the sand and if prostitutes chose to cross it, they could expect to be charged.

"My view is that if they stay within the stalls, that's fine. But if they come out and meet prospective clients on the street then it won't be allowed", Supt Green said.

I understand what he is trying to say, and although that may not affect the prostitutes, the "clients" on the other side of that line may be caught under this legislation. As I said earlier, I ask the Attorney General to give his view on that.

I have tried to outline why this legislation could have been improved had it been dealt with by the standing committee process. As I said earlier, issues of moral law reform are difficult to deal with; nonetheless, as politicians we have a responsibility to grapple with this issue. I look forward to debating the issue in its entirety before too much longer. By dealing with only one small aspect of prostitution we are ducking an issue that must be dealt with.

HON LJLJANNA RAVLICH (East Metropolitan) [8.20 pm]: In supporting the Bill, I want to put on record my concerns and, I feel, the concerns of many people in our community about this legislation. I am surprised that the Government has brought before this place this legislation to deal with kerb crawlers and street prostitution, because I would have thought that dealing with those aspects of the sex industry could have been much simpler than the Government's proposals in this Bill, which are very draconian. The Bill will do little more than drive the sex industry underground. I have grave reservations about many aspects of the legislation. The Australian Labor Party will be moving a number of amendments.

I started my research by having a look at the second reading speech, which is not a bad way to start. When one compares the second reading speech with the Bill, one quickly finds that the devil is certainly in the detail. I accept that street prostitution and kerb crawlers, particularly in the inner city, constitute a problem that needs to be dealt with. However, I am not convinced that what is proposed here will necessarily be effective in producing a desirable outcome. In the second reading speech the Attorney General comments on the delay in presenting this Bill to the Parliament. He states that the delay is not the result of any lack of commitment on the part of this Government to pursue reform of prostitution law in Western Australia. I do not know who the Attorney is trying to kid, but the bottom line is that it does not take six years to deliver prostitution legislation to this Parliament. In fact, the delivery of the legislation occurred only after it was made public that the Australian Labor Party was drafting a Bill to address this issue. The Government very quickly cobbled together this piece of legislation. I have grave concerns about the speed with which it was done and with which the Bill proceeded through the other place. The Bill was on the Table of the other place for a matter of about only 24 hours before it was debated. The Bill was pretty much rammed through the other place by the Government's use of its numbers. I guess, therefore, it is beholden on this House to go through the detail of the legislation and act in the interests of all Western Australians to ensure that what we end up with is a piece of legislation that is workable and equitable in treating all Western Australians fairly.

The Government said that the delay in introducing the Bill was occasioned by the need to achieve a position on this issue which at the end of the day is not only acceptable to the community generally but is also enforceable. Although most Western Australians know that legislation is before this place to deal with prostitution, they certainly do not have any idea of the detail of the legislation.

Some of the contents of the Bill are quite scary. One is the question of the unlimited powers given to the police under clause 27: The power to search without a warrant, to detain without a warrant, and to seize without a warrant. I am not a lawyer, but, in practice, the police require a warrant for most areas of their operations, particularly when they take people into custody, or charge them, or undertake any other processes of their work. It begs the question of why this is an exception. I will be interested to hear the comments of the Attorney General in that regard and also to hear under which other circumstances we have legislated for police to undertake their activities without the requirement for a warrant.

When I got to the bottom of the first page of the second reading speech, I thought this is not such bad legislation because the Bill aims to do three things: First, to preclude children from being prostitutes and to prevent their exploitation for sexual gratification. No member in this place would have any objection to that, and we see it as being a very good outcome of the legislation. I do not have a problem with it and I do not think anyone in the State would either. It is a very positive intent. The second objective is to protect the community by creating offences relating to health. On the face of it, that appears to be a good objective, as does the third objective, which introduces an offence to make street soliciting and kerb crawling illegal, regardless of who instituted the action - the prostitute or the client. Most Western Australians would accept that is fair and reasonable. It shifts the burden of responsibility for this activity. It is equally the responsibility of the client, as it is of a prostitute.

In real terms this Bill does much more: It creates a new class of citizens for whom the normal laws of this State do not apply; these people are an exception under this legislation. I refer here to sex workers. It also creates a situation in which, under certain circumstances, police have pretty much unchecked powers. That would be of major concern to most Western

Australians. That is one of the major problems of this legislation. My colleagues have already said that this Bill has not had much community consultation, which is evidenced by the fact that so little of the detail in the Bill is known. My view is that it is a very heavy-handed piece of legislation and has been likened to using a sledgehammer to crack a walnut. In my view, it goes further: It is like using a sledgehammer to crack a peanut. I am sure many people will concur with my sentiments in that regard.

The decision on what to do about prostitution is a very important one. I guess the question is very much dependent on the views one has about prostitution per se. I hardly thought about prostitution because I did not have much cause to do so; however, I did think about it when this legislation became public. I have some mixed feelings about prostitution because in a perfect world we would not have prostitution, but we must accept that it is not a perfect world. As legislators, we have a responsibility not to bring our prejudged views and prejudices to this place. However, we have a responsibility to the community as a whole to come out with good, workable legislation which is in the interests of all parties concerned. The fact that prostitution is closely linked with people's morality makes it even harder to deal with this complex matter.

At the end of the day, it is fair to say that we can deal with health and safety issues in the prostitution industry, and I am disappointed that that is not the focus of this legislation. Our aim should be to have a well-run, contained sex industry and to take prostitution off the streets. Given that it is the oldest profession in the world, in a modern and democratic society it is unlikely that we will ever get rid of prostitution. It will not be outlawed, so the best way we can deal with this very vexed issue is to ensure that we manage it properly. The real question before us tonight is whether the legislation before us puts in place the mechanisms by which we can best protect the community, street prostitutes and their clients. From my reading of this Bill the answer is no. The legislation will lead to a new set of problems, because principally this legislation has been done on the run. Prostitutes, particularly street prostitutes, are some of the most vulnerable people in our community. Before us we have a piece of legislation which will make them even more vulnerable.

I was interested to hear Hon Giz Watson say that there are now approximately 3 000 sex workers in this State. I am sure that number has grown since last year and probably the year before that, and it is a number which will continue to grow. One of the fundamental issues that must be addressed is why individuals go into this industry, and this legislation does not do that. Clearly, there is no high regard for the industry or for sex workers. Although that may be the case, as legislators we must ensure that when we legislate, we do so in the interests of all members of our community, and that includes sex workers. Hon Giz Watson made a pertinent point in that these people also make a contribution to our society, and there is little in this Bill for them. In fact, under this Bill they are pretty much guilty until they are proved innocent. One need only look at clauses 54 and 55. Clause 54, which is headed "Intention presumed in some cases", states -

- (1) A person loitering in or frequenting a place in circumstances giving reasonable grounds for suspecting that the person had an intention described in section 5(4)(b) or 6(3)(b) is to be presumed to have had that intention unless the contrary is proved.

This is fundamentally opposed to what we should be about in a democratic society. Surely, under the law as it currently stands - maybe Hon Peter Foss can explain this to me - we are all presumed innocent until such time as proved guilty. However, in this situation, a group of people who are sex workers are guilty until such time as they are proved innocent. That represents a grave concern. Apart from anything else, people who are in the sex industry and working as sex workers are often destitute. They are people without financial means, who are often dependent on other people; that is, their pimps, or the people who control them or work them, or whatever the term is. At the end of the day, the most vulnerable people in our community will be made scapegoats, because I would bet my bottom dollar that most of those sex workers will not have the financial means, the contacts or anything else to be able to give themselves an even break or an even chance to prove their innocence. They will not be in a position to do that. Given what has happened to legal aid funding in this State since the present Government came into power, they will have even less of a chance.

Hon Peter Foss: It has gone up since we have been in Government.

Hon LJILJANNA RAVLICH: This is a disgrace. How on earth can the Government put in the legislation that somebody is guilty until proved innocent? I will be waiting patiently and listening intently, for a change, to what the Attorney General has to say about why these people are presumed guilty until such time as they are proved innocent.

Hon Peter Foss: They are not.

Hon LJILJANNA RAVLICH: This is contained in clause 55 of the Government's legislation. I will be waiting for the Attorney's explanation of this clause, as I will be with many other clauses.

Hon Peter Foss: Get your facts right about legal aid.

The PRESIDENT: Order! Let us not worry too much about legal aid unless it relates to the Bill. Let us move on to the Prostitution Bill 1999.

Hon LJILJANNA RAVLICH: Thank you, Mr President. I agree with the President on that matter. What some members here fail to realise is that sex workers are not just sex workers.

Hon Peter Foss: They are prostitutes.

Hon LJILJANNA RAVLICH: Listen to that - what a pathetic interjection! The point I am trying to make, which the Attorney General would not understand, is that sex workers happen to be the daughters and sisters of somebody, and they often happen to be the wives and mothers of somebody. They are not just prostitutes. What an absolute disgrace. Most of them are in very serious need of help. Because most of them are in a predicament in which society has failed them and they

are at the point at which many of them do not know how to deal with the problems or issues confronting them, they are into a cycle in which they fail themselves. There is nothing in this legislation for any of these workers.

Hon Peter Foss interjected.

Hon LJILJANNA RAVLICH: They are. There is nothing in this legislation for these workers. It is all punitive. This Government has done absolutely zip in the past six years to address why these women are going down the path of prostitution. It has done nothing about that, and now 3 000 people are working in this industry. It is a trend which will continue to grow. Rather than take any positive action which goes to the source of the problem and which tries to analyse why women and men who end up as sex workers go down that path, and consider preventive solutions, the Government has come out with something which is punitive and which at the end of the day will be bad for society as a whole.

Hon Bob Thomas: Does Hon Ljiljanna Ravlich think the Bill will cure prostitution?

Hon LJILJANNA RAVLICH: No, this Bill will drive prostitution underground.

Hon Ray Halligan: Does Hon Ljiljanna Ravlich want the prostitutes on the streets? What does she mean by underground?

Hon Peter Foss: She wants people to become child prostitutes.

Hon LJILJANNA RAVLICH: The Attorney General should not be so absurd.

Hon Ray Halligan: Hon Ljiljanna Ravlich should explain herself.

Hon LJILJANNA RAVLICH: My research officer today made contact with some people who have some involvement with sex workers. One of the people contacted was Mr Graham Brown, the Acting Executive Director of the AIDS Council of Western Australia. Mr Brown said that in other parts of the world where police have wide-ranging, heavy-handed powers similar to those in this legislation, street crawling has not stopped and sex workers have just become clever and stopped carrying evidence of their trade. Rather than having the police suspect them of being sex workers and finding them with condoms and whatever else might indicate they were sex workers, they just became smart about it. The sex workers started to leave the condoms at home. As a result, the incidence of sexually transmitted infections increased. There is a lesson in that: When health issues are mixed with the Criminal Code, as the Government has done with this Bill, the questions of what is more important and how health issues relating to sex workers are dealt with are lost.

Mr Brown is also concerned that this legislation undermines the "safe sex" message. He believes - and I have also heard this, although I am not a medico - that people can have safe sex even if they are HIV positive, provided that a condom is used and there is no exchange of body fluids. I do not advocate that HIV positive people service clients, but this legislation is focused on sexually transmitted diseases and HIV.

Hon Mark Nevill: The same thing can happen with hepatitis C.

Hon LJILJANNA RAVLICH: Yes. This legislation is sending out a mixed message. The AIDS Council is telling people they can have safe sex if they are HIV positive and the legislation says that people could end up with 20 years of imprisonment if that happens. I do not know how much consultation has occurred, but I share Mr Brown's concerns. There are some genuine concerns. The legislation should provide that it is an offence for infected sex workers not to disclose their infection or to have unprotected sex. There is nothing in the legislation about unprotected sex. That would have been a good place to start, if the Government really wanted to reduce the incidence of sexually transmitted diseases and HIV. I understand most sex workers have protected sex, because they want to protect themselves. Many sex workers are married, have partners or boyfriends. I am sure that most, or all, of them do not want to infect anybody else. The sexually transmitted diseases and HIV provisions in this legislation are draconian. I do not know that they will have the effect that the Government thinks they will have. I think this legislation will cause more problems than it will solve. My understanding is that street work is already illegal - perhaps someone will correct me down the line. If that is the case, we can say that the police have not been effective in dealing with that illegality. Is it legal?

Hon Peter Foss: You obviously have done no research on the topic until today otherwise you would know why the police were not able to take action against street workers.

Hon LJILJANNA RAVLICH: Instead of giving them some restricted access or powers, the Government proposes to give them unlimited powers so that they can go into doctors' surgeries.

Hon Peter Foss: You are wrong; you obviously have not read the Bill.

Hon LJILJANNA RAVLICH: I have read the Bill and I am not wrong. I look forward to the committee stage of this Bill because I will put to the minister, clause by clause, the concerns I have about this legislation.

Hon Peter Foss: You are welcome to debate it, but you are wrong.

Hon LJILJANNA RAVLICH: Everybody who has a view which is different from that of the minister is always wrong.

Hon Peter Foss: No, but you have not researched it.

The PRESIDENT: Order! If Hon Ljiljanna Ravlich will address her comments to me, I will not interject and we can get on with the debate.

Hon LJILJANNA RAVLICH: There has been a problem with the police not having sufficient resources to move streetwalkers off the streets. The Government is now proposing to give them carte blanche in the whole area rather than give

them some additional powers. My interpretation, which may be wrong but I do not think it is, is that fewer police officers will have much more power. I do not think that is an adequate substitute for providing more police officers with a better framework of proper checks and balances in place to deal with the issues relating to sex workers.

I find many clauses in this legislation offensive. I have major difficulties with the clause allowing a person with a sexually transmissible infection to act as a prostitute. Clauses 9 and 17 provide that people with certain health conditions may not use prostitutes. I have problems with that provision. Also the legislation contains provisions whereby clients who infect prostitutes are subject to heavy penalties. I am interested to know how the Government will ascertain that a client has a sexually transmissible infection. How will the Government in practical terms track down these people, and what will it do when it finds them? Will it go to Mrs Smith, ask to have a word with her husband and take him to the police station to test him for a sexually transmissible disease? I do not know how this proposal will work in practical terms and I do not think the Government has worked that out. Because this legislation has been put together so quickly, some of the practicalities have not been thought through. Interestingly, clause 10 deals with employment in the prostitution industry. One will not be able through clause 10(b) -

The PRESIDENT: Order! The member should not go through the committee stage now. Nothing was wrong with skimming over clauses 9 and 17 in referring to health matters. However, Hon Ljiljanna Ravlich seem to be dealing with the detail of clause 10. She can mention clause 10 regarding promoting employment in the prostitution industry, and talk about it in broad terms. However, she cannot go into detail at this stage.

Hon LJILJANNA RAVLICH: Thank you for your guidance, Mr President.

Clause 10 provides that no advertising can occur for the sex industry. In fact, it states that one can incur a penalty if one publishes a statement which is intended, or likely, to cause a person to seek employment as a prostitute or a position in a business associated with prostitution. My interpretation is that if I applied for a position as a receptionist in a brothel, I would be in breach of that provision. That is a matter of great concern to me and many people.

Members know that extensive advertising is found in *The West Australian* on Saturdays; members opposite are real killjoys as many people look forward to those advertisements! This legislation will result in no more such advertisements, which is another example of the Government not considering the practicalities of its legislation. For the life of me I cannot work out how it will be applied. *The West Australian* of Saturday, 4 December contained three or four pages of such advertisements. How will the Government work out which ads are for what? The Government will need to set up a special unit to do nothing other than call all people who have advertised in the newspaper to question them about their ads. How else will it be determined whether these are advertisements by sex workers for the purposes of prostitution? I will read a few advertisements to members to highlight the complexity of this legislation. The Attorney General does not know his legislation. I refer to one advertisement for GoldFinger International, where one can get "unlimited services". I am not breaching standing orders am I, Mr President?

The PRESIDENT: Not at all.

Hon LJILJANNA RAVLICH: It outlines that one can receive -

Sexy Bi Babes, Toys, Lingerie Silk 'n' Lace Hot Mutual French! Steaming XXXX Striptease ★ Roleplay, Greek and Shower Couples, Fantasies.

Anything you Want! Anytime At All!

Hon Mark Nevill: They pay three times as much for those ads as ads placed to sell a motor vehicle.

HON LJILJANNA RAVLICH: Indeed. *The West Australian* will not be happy with the Attorney General!

Hon Peter Foss: It is big money for them.

Hon LJILJANNA RAVLICH: It is an issue. The Bill provides that no advertising should appear for anything to do with procuring sex.

Hon Peter Foss: That is not what it says.

Hon LJILJANNA RAVLICH: The Attorney General can explain his point of view later.

Hon Peter Foss: You have misinterpreted the clause.

Hon LJILJANNA RAVLICH: Do not interrupt me. The Attorney General can make a speech later; this is my contribution to the second reading. My interpretation of the clause is that it will be a nightmare for the Government to track down people advertising with a view to sell sex, or indeed to advertise for positions within the sex industry, such as a receptionist in a brothel. It will be a big job. This is further evidence that the Government does not know what its legislation contains.

Hon Peter Foss: You certainly don't know.

Hon LJILJANNA RAVLICH: Do not worry - I will get the chance to ask the Attorney General about his legislation. If I had introduced legislation, I would know what it contained.

Hon Peter Foss: You should read it for a start.

Hon LJILJANNA RAVLICH: I have read the legislation, and it is horrific stuff. At this point I am not allowed to go into it clause by clause; I will leave that for the committee stage. The Attorney General need not worry, as I will be asking the

right questions. I will go through the detail of the legislation. Suffice to say that I have grave concerns that what the second reading speech highlights as being the case, in some ways is not a true reflection of the detail of the Bill. I have grave concerns for the people working in the sex industry. My biggest concern is about the unchecked power to be given to the Police Force. The Australian Labor Party will be moving amendments to deal with those matters.

HON MARK NEVILL (Mining and Pastoral) [8.56 pm]: I do not want to exaggerate my comments on this Prostitution Bill but it is the worst piece of legislation I have seen come into this House in 16 years and I will be opposing the second reading. I know that is a forlorn action but I believe the Bill is beyond repair and I will be supporting many of the amendments in the committee stage.

The Bill has resulted from what I call political games. Street prostitution has been a huge public issue in recent months. The Opposition brought in a Bill and there was a bit of one-upmanship, with the Government coming back with a Bill a few weeks later. The Opposition played along with the issue and feels obliged to support the legislation. What do we get? We get a mess. It is legislation made on the run. Privately many members have said they are very embarrassed by this Bill, and they should be, because it is an embarrassment to this Parliament.

I thought members would have learnt a lesson about making legislation on the run. In 1992, Carmen Lawrence, the then Premier, introduced the Crimes (Serious and Repeat Offenders) Sentencing Bill. The Bill came into the Parliament in record time when there were large rallies for justice of 20 000 or 30 000 people outside Parliament House. The Bill looked good and made all the right noises but it was a disaster. We spent the next two years trying to patch it up and repair the damage that had been done. When we make legislation on the run we usually get into trouble. This Bill is an even worse example than that 1992 Bill, which I opposed in the Caucus. I do not make a habit of reading second reading speeches because usually they do not have much to do with the Bills. I always read the Bill.

I have not read the second reading speech in this debate but I read the Bill last Thursday, as one of the madams made an appointment to see me at Parliament House about the legislation. I read the Bill about half an hour before she arrived and the hair on the back of my neck was bristling. I just could not believe that this Bill had passed through the other place. I read the *Hansard* and there was one speaker after another welcoming the Bill, chanting about its benefits and championing its cause.

I was interviewed on ABC television last Wednesday or Thursday of which only one or two grabs were used, and I identified just about every problem in this Bill about which I have heard subsequently. I think the ABC used my criticism of the police powers and the fact that clauses 5 and 6 and the definition of a public place would put out of action the three brothels in Kalgoorlie. That town is my stomping ground. The Bill appears to be drafted by someone who has little practical knowledge of anything outside the metropolitan area.

Other issues that I identified when I first read this Bill were access to medical records and penalties, which I think are over the top. I think the Criminal Code provides for a penalty of 10 years for someone practising sex who knows they are HIV positive.

Hon Peter Foss: Practising sex with someone who has HIV is 20 years.

Hon MARK NEVILL: I do not think it is anything like 20 years. Many of the provisions in this Bill are in other legislation.

Hon Peter Foss: That is true. Some of the criticisms about the legislation are funny because much of it is not new law.

Hon MARK NEVILL: That is true. The focus in the Bill on imprisonment is appalling. Most of the women involved in street prostitution are addicted to drugs. They need alternatives to custody. Jailing them will not do much good. They need to be put on drug rehabilitation programs.

Under this Bill, if I were to ask a young woman in the street the time, I could be jailed for two years, although I acknowledge that is a rather facetious example.

Hon Peter Foss: What do you think should be the appropriate penalty for a person who solicits an innocent person walking along the street?

Hon MARK NEVILL: I would not put the person in jail for two years; I would consider a fine.

Hon Peter Foss: That is obviously what the court would do in the first instance, but what if the offender did it again?

Hon MARK NEVILL: I would consider alternatives to custody, such as impounding his vehicle if he were a persistent kerb crawler. Why cost the taxpayers \$66 000 a year by keeping those people in jail?

Hon Peter Foss: All of those penalties are available. A judge can impound his vehicle.

Hon MARK NEVILL: I am not sure whether some of our magistrates know that. I am not sure they even know what rehabilitation courses are available. I understand the Government is working on that.

I have had a fair bit to do with madams over the years because I have an office in Kalgoorlie and they have often told me that I am the only politician to whom they can talk, but I do not know exactly what that means. Over the years, most of them have told me that women working in brothels should be over the age of 21. It is a difficult lifestyle to cope with and the more mature women can handle it much better than the younger women.

Hon Peter Foss: The Democrats have suggested an amendment be moved to bring the minimum age to 16.

Hon MARK NEVILL: I will not support that, except in one case in which a prostitute solicits a male. The Attorney General will see later how I vote on that. I am opposed to women under the age of 21 working as prostitutes. I remember when Les Ayton, who is now the champion of freedom of information, used to sit on information when he was in the Police Force. He was one of the most secretive policemen I knew. He never answered any of the questions I asked. He seems to have recently undergone a road to Damascus conversion. When he was in the Police Service he came to Kalgoorlie and announced that the girls in the brothels must be 21, but those doing escort work could be 18. I cannot imagine a more stupid policy. A lass in a brothel has much more protection than an 18 year old doing escort work and going out to mining camps. That was the sort of nonsense with which he carried on.

I have covered most aspects of the Bill. We must be very careful because when we crack down hard on something like this phenomenon that has seemed to develop in the past two or three years, it appears in some other form somewhere else very soon. We might get rid of street prostitutes this week, but those people have drug habits and need money. We may find that the problem will reappear and we have merely shifted the problem. The same applies to home invasions and bag snatching. The number of burglaries has been dropping in recent years. Perhaps street prostitution is going up in sympathy with that drop in burglary numbers in the sense that it provides a source of money, but that is pure speculation.

I am not exaggerating when I say that this is the worst piece of legislation that I have seen. It is beyond repair, but the Australian Labor Party is probably a bit embarrassed about the Bill getting under its guard. Normally where Labor members would vote against a Bill at the second reading stage, I suppose they will try to amend the Bill to be something less offensive.

Hon Peter Foss: They assured us of bipartisan support through the whole of the Parliament.

Hon MARK NEVILL: The Bill has not got my support. There are better ways of tackling these problems. I feel that the amendments I have seen on the Notice Paper will improve this Bill, which I find very offensive. I will be opposing it at this second reading stage.

HON NORM KELLY (East Metropolitan) [9.07 pm]: It is extremely disappointing to see that after three years of waiting and of the Government's promises to introduce legislation for the sex industry, this is the best the Government can come up with. The Bill was part of a bigger draft Bill which has been torn apart and now part of it has been introduced into the Parliament to deal with the immediate focus on street prostitution. The Australian Democrats support initiatives to deal with the problems involved in street prostitution and also support the need to address problems of child prostitution and the like. However, we are extremely disappointed that the Bill does not extend to the broader sex industry, because it is very difficult to come up with a policy and statute which address the sex industry when the Bill is addressing only about 5 per cent of the overall sex industry. Street prostitution is very much the tip of the iceberg. It is the very visible part of the sex industry. In our estimation, it would probably account for only 100 to 200 workers amongst up to 3 000 workers in the sex industry in this State.

It is difficult to support the Bill in its current version. The Australian Labor Party has said that it will support the Bill through this stage. Prior to the ALP expressing that support, the Democrats looked very closely at the Bill when it was introduced and realised there was a need for massive change to it. After listening to the comments of ALP members in the other place and hearing the ALP policy position, we were amazed that they would give such support for - as Hon Mark Nevill said - a lousy piece of legislation. We appreciate that the ALP has done more work on the Bill since that debate and it has seen the need for changes. I encourage the ALP to look at the Democrats' proposals. We believe that the ALP has not fully addressed all of the issues. Many of Hon Nick Griffiths' amendments and mine which are contained on the Notice Paper are identical, although the two of us do not always agree on various matters.

Some of the problems with the Bill are obvious and that is probably why there is commonality in the amendments on the Supplementary Notice Paper. For the past few years the Government has said that there is a need to regulate the sex industry in Western Australia; yet it is still unable to introduce such legislation. We hear of the dangers to and the infringements of the legal rights of sex workers; yet the Government is willing to address only that tip of the iceberg. Workers are being assaulted and raped, and even murdered in recent times; yet the Government still will not introduce thorough legislation for this industry.

It is an industry which is willing to embrace a proper form of regulation. This is especially so for the brothels and escort agencies; they do not want to remain under a containment policy which has been abused over the past few decades. Likewise, police officers do not want to enforce this containment policy, or not enforce it, as the case may be; they want to get rid of this policy as well. I quite regularly receive reports from my contacts in the industry regarding abuses by police officers in their job of regulating the sex industry. Successive Governments have given them the job of managing organised crime in this State, and that is what it is. The police do not want that role, but are forced to take it on. Quite often we hear of police officers demanding free sex, assaulting workers and the like. It is very difficult to lay complaints against these officers, because they are the very same people who control the livelihood of the sex workers.

Hon Peter Foss: There are very few complaints against them. Unlike with the drug squad, there are few complaints against the vice squad.

Hon NORM KELLY: The vice squad is organising the sex services from brothels. That is a very different matter. Drug squad officers do not control the livelihood of drug runners and the like; whereas the vice squad officers necessarily are controlling the livelihood of these sex industry workers. It is a very difficult problem to resolve. As I say, we are very disappointed that it appears that the Government does not have the capability to legislate for such change.

Earlier speakers referred to some of the consultation they had had on this issue. One of the stark differences in the approach

taken by this Government and by others in coming up with other legislation is its lack of consultation in formulating a reasonable piece of legislation that is agreeable to all sides. Earlier this year I asked the Attorney General about consultation on this issue. He revealed that there had been none, that the Government was relying on the Beryl Grant report of nine years ago as the basis of its information, and that there had been no subsequent consultation to formulate the legislation.

Hon Peter Foss: We spoke to Sierra about it, and Phoenix.

Hon NORM KELLY: How many years ago was that? A question in the Parliament showed that there had been consultation in the past few months -

Hon Peter Foss: I spoke to them earlier.

Hon NORM KELLY: I remember that the Attorney General answered a question in his capacity of representing the Minister for Police. The answer was no, and then the Attorney General elaborated on his discussions.

Hon Peter Foss: This would have been in 1996.

Hon NORM KELLY: The fact that the Minister for Police had had no dealings with groups such as Phoenix -

Hon Peter Foss: He wasn't the police minister in 1996.

Hon NORM KELLY: No, but he has been the Minister for Police for over a year, and has undertaken no consultation with the industry in developing the legislation.

We have consulted with various groups, and I will firstly refer to the Law Society of Western Australia, which is currently considering this Bill. It referred me to a report about the changes which should be made to the legislation in this State. The report states -

The objects of any legislation controlling prostitution should include -
to safeguard public health . . .

This Bill fails to do that. Even though clauses relate to sexually transmissible infections, these clauses will be counterproductive to good public health. It also states -

. . . to protect children from exploitation in relation to prostitution . . .

The Bill works towards that and we support the Government on that. It continues -

. . . to protect the social and physical environment of the community by controlling the location of brothels . . .

There has been no progress on that matter. It continues -

. . . to promote the welfare and occupational health and safety of prostitutes . . .

There has been absolutely no progress on that matter. The Law Society goes on to say that legislation should provide for things such as a licensing or registration system. There has been no progress on that matter. There has been no progress on the licensing authority, nor has there been progress on the registration of all prostitution businesses, unless the Government considers this containment policy as a way of selective registration. A good point is self funding of the licensing system. The establishment of a prostitution board or something of a similar name could easily be a self-funding body which would, with work, have the trust and respect of people in the industry and benefit the industry in that way. The report also refers to the control of advertising relating to prostitution. The Bill of course acts on that matter. Absolutely nothing has been done about licensed premises meeting minimum health standards. Even though the Bill contains some aspects in relation to public health, the Government still has completely ignored any actions which would improve the health standards or ensure minimum health standards in brothels in this State. It is totally inadequate legislation. In last week's media release by the Western Australian Aids Council, its executive director, Chris Carter, stated that the Bill contravenes and true public health strategies, provides unwarranted powers to police and makes impossible the capacity to provide any welfare or health services. There is a very real concern that this legislation will drive people away from those services that they have been able to access quite readily and with the knowledge that the information would be kept confidential. That is why we have one of the lowest rates of sexually transmitted diseases in the sex industry compared with other States. This Bill seeks to undermine that build-up of trust. Mr Carter is reported as saying -

This Bill is ill-conceived, poorly advised, and undermines the basic health of every Western Australian . . . this Bill only creates more problems in what is a complex social matter.

Family Planning Western Australia highlights the problems with the Bill. It states -

This Bill is a punitive rather than a preventative response to the community's concerns about prostitution.

The Bill directly contravenes a number of national and international recommendations regarding the maintenance of optimal sexual health and prevention of sexually transmissible infections.

The provisions for health measures in this Bill go over the top. The penalties do not relate to existing penalties in the Criminal Code and the Health Act. There is no comparability with what is trying to be achieved here. It would appear that, in a general sense, the police have been given a free run to get into this Bill any powers they have requested, because those powers are also over the top. Family Planning goes on to state that the part on confidentiality is "to the detriment of sex workers and their clients who will be reluctant to access health services for HIV and STD testing in the event that the information may be used to prosecute them". It also states -

This legislation overrides confidentiality legislation requirements for health providers and places them in an ethical and legal dilemma.

There is a real concern that this legislation will drive a lot of the work underground away from those services, increasing the risk of the spread of sexually transmitted diseases. Family Planning Western Australia goes on to say -

Our concern is that workers fearing entrapment will not be prepared to speak to outreach workers. This compromises health organisation's capacity to provide the services they have been funded by the State to provide.

This is understandable feedback that we are getting on this Bill. It is feedback of which the Government would have been aware had it had the decency to ask these people. I want to hear from the Attorney General in his response about the consultation the Government had on what turned out to be the final draft of this Bill before introducing it into Parliament, or whether there was a knee-jerk reaction to try to get something into the Parliament prior to the summer recess.

A few weeks ago I moved an urgency motion in this place on issues relating to street work and prostitution. In the same week, the Government gave notice that it would introduce this Bill, and the Australian Labor Party, through the member for Midland, introduced its Bill to deal with street work. When I examined the Government's Bill and the ALP's Bill, I thought that the ALP's Bill was an overly simplistic and hastily drawn-up attempt to deal with what can be a complex issue. I thought that maybe the ALP did not look at the problems within the Australian Capital Territory's Act. Having examined the Government's Bill, I saw that it was far broader in its implications. However, when I started to pare it back and take out all the clauses which were unreasonable, I found that it was getting closer to the ALP's Bill. That is why it is difficult to decide whether this Bill is redeemable. As I said, given the ALP's position of support, it is important to ensure that if this Bill does progress, it does so with significant amendments, which take away the draconian police powers and the negative impact on public health but which keep intact those provisions relating to child prostitution and street work for which the Government said it introduced the Bill in the first place.

A significant problem in the Bill relates to the definition of "public place", because it is that definition in its current form which extends this Bill to impact upon brothels in this State. I am aware that the Government's opinion and the police legal department's opinion is that that is not the case. However, I have not been able to find any other opinion to support the Government or the police on that basis. The various legal opinions we have sought confirm our belief that the definition of "public place" in this Bill enables the Bill to go far beyond what the Government states is its intention. For that reason, it is best to look back at what is contained in the Health Act with regard to public places. That Act deals extensively with sexually transmitted diseases.

The definition of "prostitution" in the Bill is also fraught with problems as to the extent to which sexual services constitute prostitution and where the line is drawn. After reading the Bill and trying to imagine the various scenarios, it is apparent it contains loopholes which streetwalkers could exploit if the current definition is retained. I put one such scenario to some workers and other people involved in the industry, which was the case of a streetwalker offering stripping services to a client. The client could masturbate. There would be no physical contact between the two and it would not be regarded as prostitution under the definition in the Bill. It would be difficult to pick up offenders because they would not be offending under this Bill.

Hon Peter Foss: Is Hon Norm Kelly suggesting they should be picked up?

Hon NORM KELLY: I am suggesting it is a simple loophole that could be exploited.

Hon Peter Foss: It is not a loophole. We have been working on this for five or six years. The Government must look at the consequences of everything it puts in the Bill. The Government has gone much further than defining prostitution.

Hon NORM KELLY: We will be applying the definition of prostitution to only one scenario. The Australian Democrats would much rather see a Bill that encompasses the sex industry in its entirety.

Hon Peter Foss: That may be so, but this definition of prostitution was argued for years.

Hon NORM KELLY: It was argued only by certain members of the Government and the Police Force; it has not been argued in the broader context or about how it will apply in Western Australia.

Hon Peter Foss: If the definition is extended, more people will be caught. Those little parlours where people strip and the men sit -

Hon NORM KELLY: Like peepshows?

Hon Peter Foss: If the member wants to -

The PRESIDENT: Order! Attorney General, we can discuss at length the meaning of the word "prostitution" when we get to the committee stage.

Hon NORM KELLY: There will always be that question as to where to draw the line on these definitions. However, we believe there are deficiencies in the definition for the purpose this Bill seeks to cover; that is, street workers. The Bill, the Government's statements in the second reading speech and other comments connected with the Bill clearly show that the Government is not addressing the issue of why there are street workers at all. The Government sees street workers as criminals, as people who should be locked away. It is not investigating the underlying reasons why these people, predominantly women, are walking the streets in the first place. The Bill does not address issues such as poverty, homelessness or drug dependency. Those issues must be addressed if we are to make a change and improve these people's lives.

There is a need to address the concerns of the residents whose lives have been impacted upon by streetwalkers. Those residents are experiencing a legitimate problem. Earlier this year, the residents around Hyde Park, in Glendower and Palmerston Streets, suffered problems which were relieved because of police action. The sex workers moved down to Stirling and Pier Streets and started working there. The problem was transferred from one residential area to another. It is interesting that the Minister for Police said he would consult with those residents prior to the introduction of any legislation. I received a telephone call today from a person I dealt with earlier this year. He asked what had happened to the Government's promise. He expressed his concern about the Bill. Various matters could have been better addressed in the Bill if the Government had consulted. The move-on powers in clause 26 are significant and could be very effective in controlling street prostitution.

Hon Peter Foss: Do you not think street prostitution actions should be more against clients than against prostitutes?

Hon NORM KELLY: Yes. It is very important to target clients more than workers and that is why we believe there should be a scale of penalties so that the kerb crawlers are more heavily penalised than the workers. There are some difficulties in the Bill whereby workers are subject to the same penalties as their pimps or controllers. We believe pimps and the like should be more heavily penalised than the workers. Sending these workers to Bandyup Women's Prison is not the answer to the Government's problems, and that is why the Australian Democrats oppose the use of custodial sentences for the workers. The women's prisons are already significantly overcrowded and this proposal will add to that. At the same time, no response has been received from the Government on how it will address the significant overcrowding that is already apparent. The custodial sentences will make women double victims and will increase the chances of recidivism, so they are not the answer. The Democrats will move amendments to change the custodial penalties to monetary penalties. We do not believe that is necessarily the answer but we must reduce the penalties for those victims.

Hon Peter Foss: You will cause them to go back on the streets to earn the money to pay the fines.

Hon NORM KELLY: That is why I believe monetary penalties are not necessarily the answer. I hope magistrates will use their discretion when imposing penalties and ordering programs for these people.

The move-on powers are significant and they could be very effective. They could also quite easily be abused. There should be proper regulation of this legislation to ensure that abuses are minimised. In the discussion paper released by the Australian Democrats a few months ago, reference is made to safe houses in red-light districts as a way of regulating street work. Street workers would have somewhere to take their clients; the safe houses could be self-funded; and they would allow access to the workers to provide them with assistance and counselling. That is not the Democrats' policy but it is an initiative that we believe should be more widely discussed. The proposal was included in the paper to generate public discussion. We have received many responses from various sectors of the industry about the way in which that proposal would work. There are still problems but it should be contemplated.

Reference is made in the Bill to a person who could reasonably be expected to know that the prostitute had a sexually transmissible infection. I would like to hear the Government's interpretation of reasonable in that context.

Hon N.D. Griffiths: It would have no knowledge of reasonable.

Hon NORM KELLY: It gives a little indication about the introduction of mandatory testing; that is, a mandatory requirement for testing for sexually transmitted diseases to meet this reasonable test. That is an unfortunate change, as mandatory testing is resisted by the industry. Regular testing is already established within the industry, and the idea of mandatory testing would not necessarily achieve anything. I have a copy of the Royal Perth Hospital's sex health clinic's screening protocol. It indicates that the ordinary protocol for voluntary testing is for four-weekly swab testing, and 12-weekly blood testing.

Hon Peter Foss: The main reason for opposing the imposition of compulsory testing is that it would not be payable under Medicare.

Hon NORM KELLY: Is that against mandatory testing?

Hon Peter Foss: If it were made compulsory, one would not receive a refund of the costs under Medicare.

Hon NORM KELLY: We already have widespread voluntary attendance for testing, so I am not sure that the Attorney General's argument stands up.

Hon Peter Foss: I am telling you the main reason why they oppose it.

Hon NORM KELLY: It is in place. A case management unit adequately deals with people who are regarded as a threat of spreading disease.

Clause 60 of the Bill refers to the transfer of information to and from various departments, which would be totally counterproductive; that is, it would drive people away from the testing for fear of being targeted and the information being given to police officers. Therefore, the Australian Democrats will oppose that clause.

The "Final Report of the Community Panel on Prostitution" of 1990 stated on page 15 -

... evidence suggests that sexually transmitted diseases amongst prostitutes are not common, nor are they common amongst clients. "Within Australia the incidence of HIV infection amongst sex industry workers is currently the lowest in the world."

The last 15 years of public health initiatives have worked very well on a voluntary basis, yet the Government wants to apply punitive action to try to make it out to be a bigger problem than it really is.

Hon Peter Foss: Murder is pretty rare too.

Hon NORM KELLY: The Attorney General refers to another problem with this Bill: Existing legislation could apply to crimes outlined in the Bill through the Criminal Code and the Health Act. These measures could adequately deal with people who spread such infections. Another problem in our research in the past two weeks has been to cross-reference various Acts with the Bill to see which areas are already covered. This Bill is often a duplication. In many cases, a minimal change to an existing Act would be sufficient to meet an offence outlined rather than creating new offences in this Bill.

Hon Peter Foss: It is helpful to have them in one place, don't you think?

Hon NORM KELLY: It is extremely helpful to have them in one place; in fact, the Government has promised to have police search and seizure powers in one piece of legislation. When the Police Amendment Bill is enacted, search and seizure powers will be found in one piece of legislation. Until then, such powers will be found in places like the Prostitution Bill, the Misuse of Drugs Act, the Weapons Act, the graffiti implements legislation and other measures. However, these powers are not uniform as some are pre-arrest and some post-arrest, which makes it difficult for police officers to think about different Acts each time they wish to initiate a search and seizure. I agree with the Attorney General that it is wrong to have search and seizure powers in this Prostitution Bill because it goes directly against the Government's policy. We have been waiting years not only for a Prostitution Bill, but also for other amending Bills to the Police Act 1892, which the Government promised in order to consolidate these various powers, but still they have not appeared.

Several members interjected.

The PRESIDENT: Order! The member has limited time. I happen to be interested in what is being said and members are preventing me from hearing.

Hon NORM KELLY: Thank you, Mr President. It is crazy to continue making ad hoc amendments to every single Bill that comes before this place. That is the reason that the Australian Democrats will support the removal of the police powers contained in this Bill. The powers should go into the Police Act where they are needed. The Australian Democrats did not support the reversal of the onus of proof in the Police Amendment Bill last year and we will not be supporting it this year in this Bill either. We remain consistent in our position in that regard.

In regard to public health, it has been brought to my attention in the past week or so that medical records have been shredded in fear of this Bill being enacted. The medical profession fears the powers that the police could have to search premises and obtain medical records and like information as they will not be required to obtain search warrants. Clauses in the Bill refer to searches without warrants. Why would police bother to obtain a warrant if they have the option to search premises and seize documents without one?

Hon Peter Foss interjected.

The PRESIDENT: Order! The Attorney General should not interject, because I am trying to listen. There are five conversations going on in the Chamber at the moment.

Hon NORM KELLY: The Australian Democrats are also concerned that the Bill contains no accountability measures for the broadening of these police powers. At the same time that police will be able to use these powers relating to street work and the power to enter brothels and search them without a warrant, they also have control of these very same brothels by way of the containment policy. Combining the fact that the police have to contain criminal activity in brothels with the wider power of being able to search them without a warrant will exacerbate the already stated problems - which are very much in the minority of complaints - of police abusing those powers against workers in those establishments.

Clause 37, which relates to undercover officers, deals largely with the possibility of entrapment and the extent of the authority of the Commissioner of Police to control the way in which undercover officers can operate. Basically, they can have sex with one of these workers and then charge that worker with the offence of having sex. That is totally bizarre. If there must be such powers, there should at least be a limitation on the extent to which the powers can be used. It would be irresponsible for the House to support such powers without ensuring there was some form of restriction or the ability to say to what degree such powers should be used.

Hon Nick Griffiths referred to the limitations on liability contained in clause 59. I am not sure whether that was included in ignorance of the recent Bill passed in this place.

As I said before, the move-on powers, together with the restraining orders, are probably sufficient for the police to deal effectively with the problem of street workers. However, I understand that move-on powers for kerb crawlers and the like also exist. That is a significant power, which must be carefully used; nonetheless, it could be effective.

The penalties throughout the Bill are excessive. As I said, custodial penalties for sex workers are unwarranted. A penalty of \$50 000 for advertising prostitution is bizarre. I would like to hear the Attorney General's rationale for that amount.

Hon Peter Foss: You have already told me how much they are making out of publishing.

Hon NORM KELLY: I did not.

Hon Peter Foss interjected.

Hon NORM KELLY: Does the Attorney General think it is fair for a local community newspaper to be fined \$50 000 for running a small advertisement?

Hon Peter Foss: How much do you think they earn from advertising?

Hon NORM KELLY: I find it interesting that the ability to pay in a general sense is a benchmark for setting that limit on the penalty.

Hon Peter Foss interjected

The PRESIDENT: Order! When the Attorney General replies, he can let us know how much he thinks they are earning from it, because that is the appropriate time for him to tell us.

Hon NORM KELLY: Thank you, Mr President. The Democrats believe that the clauses covering custodial sentences for children are also badly thought out. They will not achieve any benefit for those people. If we are referring to children who are workers - there is also an argument to differentiate between children below the age of 16 years and 16 and 17 year olds - custodial penalties are not warranted. Proper care and work with those people is necessary and will help them. Custodial sentences will not help them.

The Attorney General was wrong when he interjected earlier about what the Democrats believe should be the minimum age for sex workers. We do not have a policy on age. From consultation, we found that it is generally believed within the industry that 18 is a reasonable age and that people younger than 18 should not be working in the sex industry. Some people believe the minimum age should be 21. It is rare to hear people agreeing that 16 is old enough for someone to work in the industry. However, a 16 or 17 year old who is a client of a prostitute should not necessarily attract the penalties in this Bill. It would be bizarre if boys aged 17 years and 10 months were subject to a possible jail term for visiting a brothel. Likewise, this has been ill thought out. What is driving such penalties for such offences?

Hon N.D. Griffiths: It would be interesting to know where that idea came from.

Hon NORM KELLY: Exactly. Also, if the Government had conducted research, it would have realised that is not an issue in the industry. The number of 16 and 17 year olds attending brothels and the like constitutes a very small percentage. I do not have the figures with me but it is only a couple of per cent or so.

It is difficult to say that this Bill is redeemable. The Australian Democrats' position is that it would be far better for this Bill to be defeated at the second reading stage and for the Government to go away, do some work over the summer recess, conduct some proper consultation and come back with a better thought out and more comprehensive Bill with which to regulate the sex industry. However, given the likelihood that the Bill will progress past the second reading stage, we will be doing our utmost to move our amendments to make the legislation stronger and fairer. We encourage all members in this Chamber to consider all of our amendments to make the Bill as strong as possible. As I have said, we are very disappointed that the Government has not taken the bit between its teeth and come up with thorough, comprehensive legislation to address the issues in the sex industry and as such, we are unable to support the Bill at this stage.

HON J.A. COWDELL (South West) [9.52 pm]: I support the second reading of the Bill. Some commendable initiatives are fully outlined in the Attorney General's second reading speech, particularly the goals. The Bill proposes to preclude children from being prostitutes and prevent their exploitation for sexual gratification. It protects the community by creating offences relating to health and introduces offences to make street soliciting and kerb crawling illegal, regardless of who initiated the action, whether a prostitute or a client. The Attorney General went on to outline the worth of these initiatives for curbing street prostitution, curbing sexually transmittable diseases, limiting sex advertising and providing for greater child protection. These are commendable initiatives. However, by the time one gets to page 6 of the Attorney General's speech, doubts start to arise where other matters are outlined. The Attorney General stated -

However, there are occasions when the person acting as a prostitute or seeking the services of a prostitute, is himself or herself a child and therefore it is essential that the actions of a child in these circumstances should constitute an arrestable offence.

The minister then went on to refer to the fact that the child being at risk, it would be appropriate to place that child in the care of an appropriate authority. I am not quite sure how this equates with clause 21 which states -

- (1) A child is not to seek another person to act as a prostitute.
Penalty: Imprisonment for 6 months.

This is the start of a number of clauses of the Bill which raise severe doubts about what the Bill is proposing to do.

The minister then outlined the power of entry without warrant, at any time, to any place from which a business involving the provision of prostitution is, or is suspected of, being conducted. I foolishly considered that this provision had something to do with street prostitution, but I cannot see the relevance of this clause in that regard. Then there is the clause, which the minister outlined, enabling police officers to operate covertly in order to obtain evidence of the commission of an offence. Surely we have enough natural offenders on the streets, without getting the police into the act as well. I recall some years ago, when I was the Assistant Secretary of the Australian Labor Party, being called upon to act in my capacity as a justice of the peace next door at Curtin House. A standard procedure of the police was to send an attractive policewoman into the nearby park to entrap elderly, ethnic gentlemen and to charge them. After a number of these occasions, I indicated to the police officers that although they might want to indulge in these things, I did not want to waste my time to aid and abet them in this activity. We are enshrining that sort of activity in this legislation. My impression of this legislation, although it has some commendable initiatives, is that it is a Christmas tree Bill - everything the police ever wanted for Christmas is tacked onto this legislation. We have entry, search and seizure without a warrant. We have entrapment.

Hon Barry House: The same as for the fisheries inspectors.

Hon J.A. COWDELL: Indeed. The police have always been envious of the fisheries legislation.

Hon Simon O'Brien: The apple and pear board inspectors.

Hon J.A. COWDELL: The police are in catch-up mode!

Hon Mark Nevill: I think you should apply it to the dog catchers.

The PRESIDENT: Order! More importantly, members should apply themselves to the Prostitution Bill, which is what we are talking about.

Hon J.A. COWDELL: It contains a list of powers which have been tacked onto the first convenient Bill to go by. It covers entry, search and seizure without a warrant; entrapment; reversal of evidentiary provisions; the definition of a public place to include brothels; disproportionate penalties - some are higher than those for willful murder, I suspect; abolition of confidentiality of health records; and a huge level of police discretion, as admitted by the minister in his media statements. I suggest this is part of the problem with the current regime, and this new Bill merely perpetuates the police discretion.

Many of the provisions contained in this Bill are appropriate only to a public order or state of emergency Bill. I expect they would be appropriate if we were dealing with the Ulster emergency, or perhaps the threat of the Bader Meinhoff group. I hardly think they are appropriate to deal with the curbing of street prostitution. I look forward to the passage of this Bill, minus the extraneous provisions which are not warranted in the initiatives we seek here.

HON PETER FOSS (East Metropolitan - Attorney General) [9.58 pm]: The first thing I make quite clear is that prostitution legislation is not moral legislation, and never has been. A difficulty we have had -

Hon Ken Travers interjected.

The PRESIDENT: Order! The Attorney General has been speaking for 23 seconds. I ask members to let him get on with the reply to the second reading debate, and then they can interject during the committee stage.

Hon PETER FOSS: As I was saying, that is a difficulty people have had. It is extraordinary to hear Hon Cheryl Davenport saying that this is moral legislation. Many people have been opposed to any action being taken in regard to prostitution in the mistaken belief that we have moral legislation for prostitution; whereas anybody with any knowledge of the law relating to prostitution will know that none of the current regulation of prostitution has any moral ground to it whatsoever. It is based purely on the question of public order; for instance, soliciting is illegal because of the effect it has on everyday life. Members need only talk to the people in Palmerston Street and around Hyde Park to know that it is a substantial public order problem. Another area of control was living off the earnings of prostitution. Again, that is plainly a public order offence because it is a way in which women have been traditionally exploited. Prohibiting living off the earnings of prostitution was a way in which that exploitation could be prevented. The third area of control was keeping a bawdy house. Such houses were regulated not for moral reasons but because bawdy houses, by the very name they were given, had a tendency to attract a large amount of noise and undesirable characters. Living next to a bawdy house was not pleasant, because it used to be very loud and disturbing. Each of those offences relating to prostitution which are currently in the law were not related to the morality of prostitution. The civil law has always frowned on prostitution and it has always been considered an unlawful act. However, the reason behind the offences in our current law are not related to morality; they are related to public order.

Debate adjourned, pursuant to standing orders.

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [10.01 pm]: I move -

That the House do now adjourn.

Shenton Park Land Sale - Adjournment Debate

HON HELEN HODGSON (North Metropolitan) [10.02 pm]: I take this opportunity to place a few comments on the record about an issue in my constituency which has been brought to my attention; that is, the Shenton Park bushland area and concerns that residents in the area have about plans for that land to be sold to be used for residential housing. The land in question is at Underwood Avenue in Shenton Park. The 32 hectares of land involved is owned by the University of Western Australia, which plans to sell 22 hectares. The land is currently zoned urban. It is a planning issue about which we cannot do a great deal in the context of disallowance procedures in this place. However, most people would have identified that the matters that get residents most concerned are either planning issues or environmental issues, and this one combines both.

The proposal is that 10 hectares of this land will be left, of which 8.5 hectares will remain as bushland and 1.5 hectares will become cleared parkland. The reason that the residents are concerned about this issue is that this piece of remnant bushland is quite important in terms of the Perth Bushplan and the need to protect the ecosystem. In the recent Bushplan the land in question was considered a significant area. It contains three types of ecological communities: Jarrah, tuart and banksia woodland. The development that is left would leave less than half of the jarrah and even less tuart. The bush that is to be left would simply be a remnant of a remnant and would not be sufficient to preserve any viable ecosystem. This will have an impact on wildlife in the area. I note that the Bushplan has identified a number of species of fauna. A limited survey indicated that 12 species of birds and three species of reptiles use that piece of bushland. It is an important connection between the Kings Park and Bold Park bushland in terms of greenways. I appreciate that, because the zoning has already been done, there is very little we in this place can do in reviewing the zoning issues. This highlights a fundamental problem to which I have referred previously in this House; that is, education funding. The University of Western Australia is now selling a piece of what is considered to be prime real estate in order to meet its commitments to continue funding the operations of the university. We all know how short of funds the university has been when, for example, it must put out a public appeal to alumni to fund improvements in its medical program. What will happen is that ultimately this important